34:1B-129

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2016 **CHAPTER:** 9

NJSA: 34:1B-129 (Revises priority schedule for issuance of converted tax credits under Business Employment Incentive Program)

BILL NO: A4002 (Substituted for S2376)

SPONSOR(S) Schaer and others

DATE INTRODUCED: June 23, 2016

COMMITTEE: **ASSEMBLY:** Budget

SENATE: ---

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** June 27, 2016

SENATE: June 30, 2016

DATE OF APPROVAL: June 30, 2016

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Introduced version of bill enacted)

A4002

SPONSOR'S STATEMENT: (Begins on page 5 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY**: Yes

SENATE: No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, ***may possibly*** be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL NOTE: Yes

S2376

SPONSOR'S STATEMENT: (Begins on page 3 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY**: No

SENATE: Yes

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL NOTE: Yes

(continued)

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:
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REPORTS:

HEARINGS:

NEWSPAPER ARTICLES: Yes

"Christie signs 6 measures, vetoes 7," NorthJersey.com, July 1, 2016

RWH/CL

P.L.2016, CHAPTER 9, ***approved June 30, 2016***
Assembly, No. 4002

AN ACT revising the priority schedule for the issuance of converted tax credits under the Business Employment Incentive Program, amending P.L.1996, c.26.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 6 of P.L.1996, c.26 (C.34:1B-129) is amended to read as follows:

6. a. The amount of the employment incentive awarded as a grant by the authority shall either be awarded in cash or as a tax credit. In each case, the amount of the grant shall be not less than 10 percent and not more than 50 percent of the withholdings of the business, or not less than 10 percent and not more than 30 percent of the estimated tax of the partners of an eligible partnership whether paid directly by the partner or by the eligible partnership on behalf of the partner's account, or any combination thereof, and shall be subject to the provisions of sections 10 and 11 of P.L.1996, c.26 (C.34:1B-133 and C.34:1B-134). In no case shall the aggregate amount of the employment incentive grant awarded pursuant to a business employment incentive agreement entered into on or after July 1, 2003 exceed an average of $50,000 for all new employees over the term of the grant. The employment incentive shall be based on criteria developed by the authority after considering the following:

(1) The number of eligible positions to be created;

(2) The expected duration of those positions;

(3) The type of contribution the business can make to the long-term growth of the State's economy;

(4) The amount of other financial assistance the business will receive from the State for the project;

(5) The total dollar investment the business is making in the project;

(6) Whether the business is a designated industry;

(7) Impact of the business on State tax revenues; and

(8) Such other related factors determined by the authority.

b. A business may be eligible to be awarded a grant, either in cash or in tax credits, of up to 80 percent of the withholdings of the business or up to 50 percent of the estimated tax of the partners of an eligible partnership if the grant promotes smart growth and the goals, strategies, and policies of the State Development and Redevelopment Plan, established pursuant to section 5 of P.L.1985,

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

c.398 (C.52:18A-200), as determined by and based upon criteria promulgated by the authority following consultation with the Office of State Planning in the Department of State.

c. The term of the grant shall not exceed 10 years.

d. At the discretion of the authority, the grant may apply to new employees or partners in eligible positions created during the base years, and during the remainder of the term of the grant.

e. Within 180 days of the date of enactment of P.L.2015, c.194 (C.34:1B-137.1 et al.), a business that was approved for a grant prior to the enactment of P.L.2015, c.194 (C.34:1B-137.1 et al.), may direct the authority to convert the grant to a tax credit against the tax liability otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The direction to convert the grant to a tax credit shall be irrevocable. An approved tax credit shall be issued in the manner and for the amounts as follows and may only be applied in the tax period for which they are issued and shall not be carried forward:

(1) For grants accrued but not paid during calendar years 2008 through 2013, the tax credit shall be equal to an approved amount and shall be issued in five installments over a five-year period beginning in the 2017 tax accounting or privilege period of the business or tax credit transferee in the following percentages: in year one, 【30】 <u>five</u> percent of the accrued amount; in year two, 【30】 <u>20</u> percent of the accrued amount; in year three, 【20】 <u>25</u> percent of the accrued amount; in year four, 【10】 <u>25</u> percent of the accrued amount; in year five, 【10】 <u>25</u> percent of the accrued amount. To the extent any amount in this paragraph has not been approved by the authority by the commencement of State fiscal year 2017, the aggregate tax credit that would have been issued in State fiscal year 2017 shall be issued in the year the amount is approved and the five-year period shall commence in that fiscal year;

(2) For a grant accrued but not paid during calendar year 2014, the tax credit shall be equal to any approved amount and shall be issued in four equal installments over a four-year period beginning in the 2019 tax accounting or privilege period of the business or tax credit transferee;

(3) For a grant accrued but not paid during calendar year 2015, the tax credit shall be equal to any approved amount and shall be issued in four equal installments over a four-year period beginning in the 2019 tax accounting or privilege period of the business or tax credit transferee;

(4) For a grant accrued but not paid during calendar year 2016, the tax credit shall be equal to any approved amount and shall be issued in three equal installments over a three-year period beginning in the 2020 tax accounting or privilege period of the business or tax credit transferee;

(5) For a grant accrued but not paid during calendar year 2017, the tax credit shall be equal to any approved amount and shall be issued in three equal installments over a three-year period beginning in the 2020 tax accounting or privilege period of the business or tax credit transferee;

(6) For a grant accrued but not paid during calendar year 2018, the tax credit shall be equal to any approved amount and shall be issued in two equal installments over a two-year period beginning in the 2022 tax accounting or privilege period of the business or tax credit transferee;

(7) For a grant accrued but not paid during calendar year 2019, the tax credit shall be equal to any approved amount and shall be issued in two equal installments over a two-year period beginning in the 2022 tax accounting or privilege period of the business or tax credit transferee;

(8) For a grant accrued but not paid during calendar year 2020, the tax credit shall be equal to any approved amount and shall be issued in two equal installments over a two-year period beginning in the 2023 tax accounting or privilege period of the business or tax credit transferee;

(9) For a grant accrued but not paid during calendar year 2021, the tax credit shall be equal to any approved amount and shall be issued in two equal installments over a two-year period beginning in the 2023 tax accounting or privilege period of the business or tax credit transferee;

(10) For a grant accrued but not paid during calendar year 2022, the tax credit shall be equal to any approved amount and shall be paid in two equal installments over a two-year period beginning in the 2023 tax accounting or privilege period of the business or tax credit transferee;

(11) For a grant accrued but not paid during calendar year 2023, the tax credit shall be equal to any approved amount and shall be issued in two equal installments over a two-year period beginning in the 2023 tax accounting or privilege period of the business or tax credit transferee;

(12) For a grant accrued but not paid during calendar year 2024, the tax credit shall be equal to any approved amount and shall be issued in the 2025 tax accounting or privilege period of the business or tax credit transferee; and

(13) For a grant accrued but not paid during calendar year 2025, the tax credit shall be equal to any approved amount and shall be issued in the 2025 tax accounting or privilege period of the business or tax credit transferee.

f. The amount of the credit allowed pursuant to this section shall be applied against the tax otherwise due under section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5, prior to all other credits and payments. If the credit exceeds the amount of tax liability otherwise due from a business that pays taxes under section 5 of P.L.1945, c.162 (C.54:10A-5), that amount of excess shall be an overpayment for the purposes of R.S.54:49-15, provided, however, that section 7 of P.L.1992, c.175 (C.54:49-15.1) shall not apply.

g. A business that does not pay taxes under section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 may apply to the executive director of the authority for a tax credit transfer certificate, covering one or more years. The tax credit transfer certificate, upon receipt thereof by the business from the executive director of the authority, may be sold or assigned, in full or in part, in an amount not less than $100,000, or the amount of the refundable tax credit issued if less than $100,000, of tax credits to any other person that may have a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The tax credit transfer certificate provided to the business shall include a statement waiving the business's right to claim that amount of the credit against the taxes that the business has elected to sell or assign. The sale or assignment of any amount of a tax credit transfer certificate allowed under this section shall not be exchanged for consideration received by the business of less than 75 percent of the transferred credit amount before considering any further discounting to present value which shall be permitted. Any amount of a tax credit transfer certificate used by a purchaser or assignee against a tax liability shall be subject to the same privileges, limitations, and conditions that apply to the use of the credit by the business that originally applied for and was allowed the tax credit, including treating the amount of excess as an overpayment under subsection f. of this section. The tax credit transferee may not transfer its tax credit to any other party.

(cf: P.L.2015, c.194, s.2)

2. This act shall take effect immediately; provided, however, that section 1 shall apply retroactively to January 11, 2016.

STATEMENT

This bill revises the priority schedule that was established by P.L.2015, c.194 (C.34:1B-137.1 et al.) for the issuance of converted tax credits under the Business Employment Incentive Program to slow implementation of the conversion process.

Under current law, businesses that have previously been approved for the award of a grant under the program may direct the New Jersey Economic Development Authority to convert the grant to a tax credit that can be used to reduce the business's tax liability or sold or assigned to another person that may have a liability for tax through a tax credit transfer certificate. The law authorizing the conversion of grants to tax credits establishes an implementation schedule that prioritizes the issuance of tax credits in connection with older, outstanding grant awards that should have been paid in prior calendar years over grant awards that may be due and newly payable in the future.

The priority schedule requires the authority to issue tax credits in connection with the oldest, outstanding grant awards that have accrued but not been paid to businesses during calendar year 2008 through calendar year 2013 over a five-year period beginning in the 2017 tax accounting or privilege period of the business. The schedule provides that in year one of the five-year period the authority is required to issue the first installment of the tax credit to the business totaling 30% of the amount of the grant that was accrued but not paid during calendar year 2008 through calendar year 2013; in year two the authority is required to issue the second installment of the tax credit totaling 30% of the amount of the grant that was accrued but not paid during those years; in year three the authority is required to issue the third installment totaling 20% of the amount of the grant that was accrued but not paid; in year four the authority is required to issue the fourth installment totaling 10% of the amount of the grant that was accrued but not paid; and in the fifth year the authority is required to issue the fifth installment totaling 10% of the accrued amount.

This bill revises that priority schedule to decrease the percentage of the accrued amounts that are required to be issued as tax credits to businesses in year one and year two of the five-year period, and to increase the percentage amounts in years three, four, and five. The bill provides that in year one the authority is required to issue the first installment of the tax credit to the business totaling 5% of the amount of the grant that was accrued but not paid during calendar year 2008 through calendar year 2013; in year two the authority is required to issue the second installment of the tax credit totaling 20% of the amount of the grant that was accrued but not paid during those years; in year three the authority is required to issue the third installment totaling 25% of the amount of the grant that was accrued but not paid; in year four the authority is required to issue the fourth installment totaling 25% of the amount of the grant that was accrued but not paid; and in the fifth year the authority is required to issue the fifth installment totaling 25% of the accrued amount.

The bill takes effect immediately, but provides for its changes to the priority schedule to apply retroactively to January 11, 2016, the date P.L.2015, c.194 was enacted.

Revises priority schedule for issuance of converted tax credits under Business Employment Incentive Program.

ASSEMBLY, No. 4002

STATE OF NEW JERSEY

217th LEGISLATURE

INTRODUCED JUNE 23, 2016

Sponsored by:
Assemblyman GARY S. SCHAER
District 36 (Bergen and Passaic)

SYNOPSIS

Revises priority schedule for issuance of converted tax credits under Business Employment Incentive Program.

CURRENT VERSION OF TEXT

As introduced.

AN ACT revising the priority schedule for the issuance of converted tax credits under the Business Employment Incentive Program, amending P.L.1996, c.26.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 6 of P.L.1996, c.26 (C.34:1B-129) is amended to read as follows:

6. a. The amount of the employment incentive awarded as a grant by the authority shall either be awarded in cash or as a tax credit. In each case, the amount of the grant shall be not less than 10 percent and not more than 50 percent of the withholdings of the business, or not less than 10 percent and not more than 30 percent of the estimated tax of the partners of an eligible partnership whether paid directly by the partner or by the eligible partnership on behalf of the partner's account, or any combination thereof, and shall be subject to the provisions of sections 10 and 11 of P.L.1996, c.26 (C.34:1B-133 and C.34:1B-134). In no case shall the aggregate amount of the employment incentive grant awarded pursuant to a business employment incentive agreement entered into on or after July 1, 2003 exceed an average of $50,000 for all new employees over the term of the grant. The employment incentive shall be based on criteria developed by the authority after considering the following:

(1) The number of eligible positions to be created;

(2) The expected duration of those positions;

(3) The type of contribution the business can make to the long-term growth of the State's economy;

(4) The amount of other financial assistance the business will receive from the State for the project;

(5) The total dollar investment the business is making in the project;

(6) Whether the business is a designated industry;

(7) Impact of the business on State tax revenues; and

(8) Such other related factors determined by the authority.

b. A business may be eligible to be awarded a grant, either in cash or in tax credits, of up to 80 percent of the withholdings of the business or up to 50 percent of the estimated tax of the partners of an eligible partnership if the grant promotes smart growth and the goals, strategies, and policies of the State Development and Redevelopment Plan, established pursuant to section 5 of P.L.1985, c.398 (C.52:18A-200), as determined by and based upon criteria promulgated by the authority following consultation with the Office of State Planning in the Department of State.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined <u>thus</u> is new matter.

c. The term of the grant shall not exceed 10 years.

d. At the discretion of the authority, the grant may apply to new employees or partners in eligible positions created during the base years, and during the remainder of the term of the grant.

e. Within 180 days of the date of enactment of P.L.2015, c.194 (C.34:1B-137.1 et al.), a business that was approved for a grant prior to the enactment of P.L.2015, c.194 (C.34:1B-137.1 et al.), may direct the authority to convert the grant to a tax credit against the tax liability otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The direction to convert the grant to a tax credit shall be irrevocable. An approved tax credit shall be issued in the manner and for the amounts as follows and may only be applied in the tax period for which they are issued and shall not be carried forward:

(1) For grants accrued but not paid during calendar years 2008 through 2013, the tax credit shall be equal to an approved amount and shall be issued in five installments over a five-year period beginning in the 2017 tax accounting or privilege period of the business or tax credit transferee in the following percentages: in year one, ⟦30⟧ five percent of the accrued amount; in year two, ⟦30⟧ 20 percent of the accrued amount; in year three, ⟦20⟧ 25 percent of the accrued amount; in year four, ⟦10⟧ 25 percent of the accrued amount; in year five, ⟦10⟧ 25 percent of the accrued amount. To the extent any amount in this paragraph has not been approved by the authority by the commencement of State fiscal year 2017, the aggregate tax credit that would have been issued in State fiscal year 2017 shall be issued in the year the amount is approved and the five-year period shall commence in that fiscal year;

(2) For a grant accrued but not paid during calendar year 2014, the tax credit shall be equal to any approved amount and shall be issued in four equal installments over a four-year period beginning in the 2019 tax accounting or privilege period of the business or tax credit transferee;

(3) For a grant accrued but not paid during calendar year 2015, the tax credit shall be equal to any approved amount and shall be issued in four equal installments over a four-year period beginning in the 2019 tax accounting or privilege period of the business or tax credit transferee;

(4) For a grant accrued but not paid during calendar year 2016, the tax credit shall be equal to any approved amount and shall be issued in three equal installments over a three-year period beginning in the 2020 tax accounting or privilege period of the business or tax credit transferee;

(5) For a grant accrued but not paid during calendar year 2017, the tax credit shall be equal to any approved amount and shall be issued in three equal installments over a three-year period

beginning in the 2020 tax accounting or privilege period of the business or tax credit transferee;

(6) For a grant accrued but not paid during calendar year 2018, the tax credit shall be equal to any approved amount and shall be issued in two equal installments over a two-year period beginning in the 2022 tax accounting or privilege period of the business or tax credit transferee;

(7) For a grant accrued but not paid during calendar year 2019, the tax credit shall be equal to any approved amount and shall be issued in two equal installments over a two-year period beginning in the 2022 tax accounting or privilege period of the business or tax credit transferee;

(8) For a grant accrued but not paid during calendar year 2020, the tax credit shall be equal to any approved amount and shall be issued in two equal installments over a two-year period beginning in the 2023 tax accounting or privilege period of the business or tax credit transferee;

(9) For a grant accrued but not paid during calendar year 2021, the tax credit shall be equal to any approved amount and shall be issued in two equal installments over a two-year period beginning in the 2023 tax accounting or privilege period of the business or tax credit transferee;

(10) For a grant accrued but not paid during calendar year 2022, the tax credit shall be equal to any approved amount and shall be paid in two equal installments over a two-year period beginning in the 2023 tax accounting or privilege period of the business or tax credit transferee;

(11) For a grant accrued but not paid during calendar year 2023, the tax credit shall be equal to any approved amount and shall be issued in two equal installments over a two-year period beginning in the 2023 tax accounting or privilege period of the business or tax credit transferee;

(12) For a grant accrued but not paid during calendar year 2024, the tax credit shall be equal to any approved amount and shall be issued in the 2025 tax accounting or privilege period of the business or tax credit transferee; and

(13) For a grant accrued but not paid during calendar year 2025, the tax credit shall be equal to any approved amount and shall be issued in the 2025 tax accounting or privilege period of the business or tax credit transferee.

f. The amount of the credit allowed pursuant to this section shall be applied against the tax otherwise due under section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5, prior to all other credits and payments. If the credit exceeds the amount of tax liability otherwise due from a business that pays taxes under section 5 of P.L.1945, c.162 (C.54:10A-5), that amount of excess shall be an overpayment for the purposes of R.S.54:49-15, provided, however, that section 7 of P.L.1992, c.175 (C.54:49-15.1) shall not apply.

g. A business that does not pay taxes under section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 may apply to the executive director of the authority for a tax credit transfer certificate, covering one or more years. The tax credit transfer certificate, upon receipt thereof by the business from the executive director of the authority, may be sold or assigned, in full or in part, in an amount not less than $100,000, or the amount of the refundable tax credit issued if less than $100,000, of tax credits to any other person that may have a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The tax credit transfer certificate provided to the business shall include a statement waiving the business's right to claim that amount of the credit against the taxes that the business has elected to sell or assign. The sale or assignment of any amount of a tax credit transfer certificate allowed under this section shall not be exchanged for consideration received by the business of less than 75 percent of the transferred credit amount before considering any further discounting to present value which shall be permitted. Any amount of a tax credit transfer certificate used by a purchaser or assignee against a tax liability shall be subject to the same privileges, limitations, and conditions that apply to the use of the credit by the business that originally applied for and was allowed the tax credit, including treating the amount of excess as an overpayment under subsection f. of this section. The tax credit transferee may not transfer its tax credit to any other party.

(cf: P.L.2015, c.194, s.2)

2. This act shall take effect immediately; provided, however, that section 1 shall apply retroactively to January 11, 2016.

STATEMENT

This bill revises the priority schedule that was established by P.L.2015, c.194 (C.34:1B-137.1 et al.) for the issuance of converted tax credits under the Business Employment Incentive Program to slow implementation of the conversion process.

Under current law, businesses that have previously been approved for the award of a grant under the program may direct the New Jersey Economic Development Authority to convert the grant to a tax credit that can be used to reduce the business's tax liability or sold or assigned to another person that may have a liability for tax through a tax credit transfer certificate. The law authorizing the conversion of grants to tax credits establishes an implementation schedule that prioritizes the issuance of tax credits in connection with older, outstanding grant awards that should have been paid in prior calendar years over grant awards that may be due and newly payable in the future.

The priority schedule requires the authority to issue tax credits in connection with the oldest, outstanding grant awards that have accrued but not been paid to businesses during calendar year 2008 through calendar year 2013 over a five-year period beginning in the 2017 tax accounting or privilege period of the business. The schedule provides that in year one of the five-year period the authority is required to issue the first installment of the tax credit to the business totaling 30% of the amount of the grant that was accrued but not paid during calendar year 2008 through calendar year 2013; in year two the authority is required to issue the second installment of the tax credit totaling 30% of the amount of the grant that was accrued but not paid during those years; in year three the authority is required to issue the third installment totaling 20% of the amount of the grant that was accrued but not paid; in year four the authority is required to issue the fourth installment totaling 10% of the amount of the grant that was accrued but not paid; and in the fifth year the authority is required to issue the fifth installment totaling 10% of the accrued amount.

This bill revises that priority schedule to decrease the percentage of the accrued amounts that are required to be issued as tax credits to businesses in year one and year two of the five-year period, and to increase the percentage amounts in years three, four, and five. The bill provides that in year one the authority is required to issue the first installment of the tax credit to the business totaling 5% of the amount of the grant that was accrued but not paid during calendar year 2008 through calendar year 2013; in year two the authority is required to issue the second installment of the tax credit totaling 20% of the amount of the grant that was accrued but not paid during those years; in year three the authority is required to issue the third installment totaling 25% of the amount of the grant that was accrued but not paid; in year four the authority is required to issue the fourth installment totaling 25% of the amount of the grant that was accrued but not paid; and in the fifth year the authority is required to issue the fifth installment totaling 25% of the accrued amount.

The bill takes effect immediately, but provides for its changes to the priority schedule to apply retroactively to January 11, 2016, the date P.L.2015, c.194 was enacted.

FISCAL NOTE
ASSEMBLY, No. 4002
STATE OF NEW JERSEY
217th LEGISLATURE

DATED: JUNE 29, 2016

SUMMARY

Synopsis: Revises priority schedule for issuance of converted tax credits under Business Employment Incentive Program.

Type of Impact: Multi-year shift of annual State revenue losses to the General Fund.

Agencies Affected: Department of the Treasury;
New Jersey Economic Development Authority.

Executive Estimate

Fiscal Impact	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
State Revenue Increase	$133.4 million	$53.4 million			
State Revenue Decrease			($26.7) million	($80.1) million	($80.1) million

- The Office of Legislative Services (OLS) lacks sufficient information to independently confirm or refute the Executive estimate. But the OLS notes that the Executive estimate assumes that all businesses with outstanding grant award payments under the Business Employment Incentive Program (BEIP) will elect to convert their grants to tax credits and that State revenue losses will be realized in the year in which tax credits are issued. The estimated amounts may vary if some businesses that have been awarded a grant fail to make the election or otherwise opt-out of the conversion process, or if there is a lag between the time the tax credit is issued to a business and the time the tax credit is utilized by the business to reduce a tax liability.

- The Executive estimates this bill will result in a multi-year shift in the size and scope of converted tax credits expected to be issued in connection with BEIP grants that were accrued during calendar years 2008 through 2013 but remain to be paid. Specifically, the Executive estimates that this shift may produce a State revenue increase of $133.4 million in FY 2017 and $53.4 million in FY 2018, and a State revenue decrease of $26.7 million in FY 2019, $80.1 million in FY 2020, and $80.1 million in FY 2021, in comparison to the amounts expected to be forgone by the State under current law. The net effect of the shift over the five-year period is nil.

BILL DESCRIPTION

Assembly Bill No. 4002 of 2016 slows the implementation of the priority schedule that was established by P.L.2015, c.194 for the issuance of converted BEIP tax credits.

Under current law, businesses that have previously been approved for a BEIP grant award may direct the New Jersey Economic Development Authority (EDA) to convert the grant to a tax credit that can be used to reduce the business's tax liability or sold or assigned to another person. The law authorizing the conversion of grants to tax credits establishes an implementation schedule that prioritizes the issuance of tax credits in connection with older, outstanding grant awards that should have been paid in prior calendar years over grant awards that may be due and newly payable in the future.

The current priority schedule requires the EDA to issue tax credits for outstanding grant awards that accrued to businesses during calendar year 2008 through calendar year 2013 over a five-year period beginning in the 2017 tax accounting or privilege period of the business, as follows: (1) in *year one* of the five-year period the EDA is required to issue the first installment of the tax credit to the business totaling *30 percent* of the outstanding grant amount; (2) in *year two* the EDA is required to issue the second installment totaling *30 percent* of the outstanding grant amount; (3) in *year three* the EDA is required to issue the third installment totaling *20 percent* of the outstanding grant amount; (4) in *year four* the EDA is required to issue the fourth installment totaling *10 percent* of the outstanding grant amount; and (5) in the *fifth year* the EDA is required to issue the fifth installment totaling *10 percent* of the outstanding accrued amount.

This bill revises that priority schedule to decrease the percentage of the accrued amounts that are required to be issued as tax credits to businesses in year one and year two of the five-year period, and to increase the percentage in years three, four, and five. The bill provides that: (1) in *year one* the EDA is required to issue the first installment of the tax credit to the business totaling *5 percent* of the amount of the outstanding grant that was accrued during calendar year 2008 through calendar year 2013; (2) in *year two* the EDA is required to issue the second installment totaling *20 percent* of the outstanding grant amount; (3) in *year three* the EDA is required to issue the third installment totaling *25 percent* of the outstanding grant amount; (4) in *year four* the EDA is required to issue the fourth installment totaling *25 percent* of the outstanding grant amount; and in the *fifth year* the EDA is required to issue the fifth installment totaling *25 percent* of the outstanding accrued amount.

The bill takes effect immediately, but provides for its changes to apply retroactively to January 11, 2016, the date P.L.2015, c.194 was enacted.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The EDA indicates that this bill will result in a multi-year shift in the size and scope of converted tax credits that are expected to be issued in connection with BEIP grants that accrued during calendar years 2008 through 2013 but remain to be paid. The EDA projects that the bill will apply to $533.7 million in tax credits in total and that the net effect of the shift will be nil.

The EDA estimates that the legislation may produce a State revenue increase of $133.4 million in FY 2017 and $53.4 million in FY 2018, and a State revenue decrease of $26.7 million in FY 2019, $80.1 million in FY 2020, and $80.1 million in FY 2021, in comparison to the amounts expected to be forgone by the State under current law. The EDA does not expect the bill to affect State revenue collections after FY 2021.

Comparison of EDA-Estimated State Revenue Losses: FY 2017 – FY 2021 ($ in Thousands of Dollars)						
	FY 2017	*FY 2018*	*FY 2019*	*FY 2020*	*FY 2021*	*TOTAL*
Revenue Loss: Current Law	$160,104	$160,104	$106,736	$53,368	$53,368	$533,680
Revenue Loss: Proposed Change	$26,684	$106,736	$133,420	$133,420	$133,420	$533,680
State Revenue Increase or (Decrease) Under Bill	**$133,420**	**$53,368**	**($26,684)**	**($80,052)**	**($80,052)**	**$0**

OFFICE OF LEGISLATIVE SERVICES

The OLS lacks sufficient information to independently confirm or refute the Executive projections.

The OLS notes that the Executive projections for the potential State revenue impact under both the current priority schedule and under the bill's proposed changes are based on the assumption that all businesses with outstanding BEIP grant amounts will elect to convert their grants to tax credits. While it is generally accepted that most businesses will make the election to convert previously approved grants to credits due to insufficient State appropriations for grants in recent fiscal years, it is possible some businesses may not do so by the July 11, 2016 deadline established by statute.

In responding to EDA Discussion Point #5 in the OLS Fiscal Year 2016-2017 Department of the Treasury Budget Analysis the authority acknowledged that as of the time of its response (May 2016) only nine of the affected businesses that had previously been awarded a BEIP grant had made the election to convert their grants to tax credits. If some businesses that have been awarded a grant fail to make the election or otherwise opt-out of the conversion process, the amount of revenue that may be gained or lost as a result of the bill in a given year may need to be reduced to reflect the value of those grants not converted to tax credits.

In addition, the OLS notes that the Executive estimate assumes State revenue losses will be realized in the year in which the authority issues the tax credit to the business. However, this may not be the case. Dependent on when the EDA issues a converted tax credit to a business, there may be a lag of a year or more between the time the tax credit is issued to the business and the time the tax credit is used by the business to reduce a tax liability. This lag means that some portion of the underlying State revenue increase or decrease resulting from the bill may not be realized until the year following the year of tax credit issuance. As a result, actual losses in any given year may vary from EDA projections.

Section: *Revenue, Finance, and Appropriations*

Analyst: *Luke E. Wolff*
Senior Research Analyst

Approved: *Frank W. Haines III*
Legislative Budget and Finance Officer

This fiscal note has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4002

STATE OF NEW JERSEY

DATED: JUNE 23, 2016

The Assembly Budget Committee reports favorably Assembly Bill No. 4002.

This bill revises the priority schedule that was established by P.L.2015, c.194 (C.34:1B-137.1 et al.) for the issuance of converted tax credits under the Business Employment Incentive Program to slow implementation of the conversion process.

Under current law, businesses that have previously been approved for the award of a grant under the program may direct the New Jersey Economic Development Authority to convert the grant to a tax credit that can be used to reduce the business's tax liability or sold or assigned to another person that may have a liability for tax through a tax credit transfer certificate. The law authorizing the conversion of grants to tax credits establishes an implementation schedule that prioritizes the issuance of tax credits in connection with older, outstanding grant awards that should have been paid in prior calendar years over grant awards that may be due and newly payable in the future.

The priority schedule requires the authority to issue tax credits in connection with the oldest, outstanding grant awards that have accrued but not been paid to businesses during calendar year 2008 through calendar year 2013 over a five-year period beginning in the 2017 tax accounting or privilege period of the business. The schedule provides that:

-- in year one of the five-year period the authority is required to issue the first installment of the tax credit to the business totaling 30% of the amount of the grant that was accrued but not paid during calendar year 2008 through calendar year 2013;

-- in year two the authority is required to issue the second installment of the tax credit totaling 30% of the amount of the grant that was accrued but not paid during those years;

-- in year three the authority is required to issue the third installment totaling 20% of the amount of the grant that was accrued but not paid;

-- in year four the authority is required to issue the fourth installment totaling 10% of the amount of the grant that was accrued but not paid; and

-- in the fifth year the authority is required to issue the fifth installment totaling 10% of the accrued amount.

This bill revises that priority schedule to decrease the percentage of the accrued amounts that are required to be issued as tax credits to businesses in year one and year two of the five-year period, and to increase the percentage amounts in years three, four, and five. The bill provides that:

-- in year one the authority is required to issue the first installment of the tax credit to the business totaling 5% of the amount of the grant that was accrued but not paid during calendar year 2008 through calendar year 2013;

-- in year two the authority is required to issue the second installment of the tax credit totaling 20% of the amount of the grant that was accrued but not paid during those years;

-- in year three the authority is required to issue the third installment totaling 25% of the amount of the grant that was accrued but not paid;

-- in year four the authority is required to issue the fourth installment totaling 25% of the amount of the grant that was accrued but not paid; and

-- in the fifth year the authority is required to issue the fifth installment totaling 25% of the accrued amount.

The bill takes effect immediately, but provides for its changes to the priority schedule to apply retroactively to January 11, 2016, the date P.L.2015, c.194 was enacted.

FISCAL IMPACT:

The Executive estimates this bill will result in a multi-year shift in the size and scope of converted tax credits expected to be issued in connection with Business Employment Incentive Program grants that were accrued but were not paid during calendar years 2008 through 2013. Specifically, the Executive estimates that this shift may produce a State revenue increase of $133.4 million in FY 2017 and $53.4 million in FY 2018, and a State revenue decrease of $26.7 million in FY 2019, $80.1 million in FY 2020, and $80.1 million in FY 2021, in comparison to the amounts expected to be forgone by the State under current law. The net effect of the shift over the five-year period is nil.

The Office of Legislative Services (OLS) lacks sufficient information to independently confirm or refute the Executive estimate. But the OLS notes that the Executive estimate assumes that all businesses that have previously been awarded a grant under the program will elect to convert that grant to a tax credit and that State revenue losses will be realized in the year in which tax credits are issued. The amounts presented above may vary if some businesses that have been awarded a grant fail to make the election or otherwise opt-out of the conversion process, or if there is a lag between the time the tax credit is issued to a business and the time the tax credit is ultimately utilized by the business to reduce a liability for tax.

SENATE, No. 2376

STATE OF NEW JERSEY

217th LEGISLATURE

INTRODUCED JUNE 20, 2016

Sponsored by:
Senator PAUL A. SARLO
District 36 (Bergen and Passaic)
Senator LINDA R. GREENSTEIN
District 14 (Mercer and Middlesex)

SYNOPSIS

Revises priority schedule for issuance of converted tax credits under Business Employment Incentive Program.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 6/28/2016)

AN ACT revising the priority schedule for the issuance of converted tax credits under the Business Employment Incentive Program, amending P.L.1996, c.26.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 6 of P.L.1996, c.26 (C.34:1B-129) is amended to read as follows:

6. a. The amount of the employment incentive awarded as a grant by the authority shall either be awarded in cash or as a tax credit. In each case, the amount of the grant shall be not less than 10 percent and not more than 50 percent of the withholdings of the business, or not less than 10 percent and not more than 30 percent of the estimated tax of the partners of an eligible partnership whether paid directly by the partner or by the eligible partnership on behalf of the partner's account, or any combination thereof, and shall be subject to the provisions of sections 10 and 11 of P.L.1996, c.26 (C.34:1B-133 and C.34:1B-134). In no case shall the aggregate amount of the employment incentive grant awarded pursuant to a business employment incentive agreement entered into on or after July 1, 2003 exceed an average of $50,000 for all new employees over the term of the grant. The employment incentive shall be based on criteria developed by the authority after considering the following:

(1) The number of eligible positions to be created;

(2) The expected duration of those positions;

(3) The type of contribution the business can make to the long-term growth of the State's economy;

(4) The amount of other financial assistance the business will receive from the State for the project;

(5) The total dollar investment the business is making in the project;

(6) Whether the business is a designated industry;

(7) Impact of the business on State tax revenues; and

(8) Such other related factors determined by the authority.

b. A business may be eligible to be awarded a grant, either in cash or in tax credits, of up to 80 percent of the withholdings of the business or up to 50 percent of the estimated tax of the partners of an eligible partnership if the grant promotes smart growth and the goals, strategies, and policies of the State Development and Redevelopment Plan, established pursuant to section 5 of P.L.1985, c.398 (C.52:18A-200), as determined by and based upon criteria promulgated by the authority following consultation with the Office of State Planning in the Department of State.

c. The term of the grant shall not exceed 10 years.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined <u>thus</u> is new matter.

d. At the discretion of the authority, the grant may apply to new employees or partners in eligible positions created during the base years, and during the remainder of the term of the grant.

e. Within 180 days of the date of enactment of P.L.2015, c.194 (C.34:1B-137.1 et al.), a business that was approved for a grant prior to the enactment of P.L.2015, c.194 (C.34:1B-137.1 et al.), may direct the authority to convert the grant to a tax credit against the tax liability otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The direction to convert the grant to a tax credit shall be irrevocable. An approved tax credit shall be issued in the manner and for the amounts as follows and may only be applied in the tax period for which they are issued and shall not be carried forward:

(1) For grants accrued but not paid during calendar years 2008 through 2013, the tax credit shall be equal to an approved amount and shall be issued in five installments over a five-year period beginning in the 2017 tax accounting or privilege period of the business or tax credit transferee in the following percentages: in year one, ⟦30⟧ five percent of the accrued amount; in year two, ⟦30⟧ 20 percent of the accrued amount; in year three, ⟦20⟧ 25 percent of the accrued amount; in year four, ⟦10⟧ 25 percent of the accrued amount; in year five, ⟦10⟧ 25 percent of the accrued amount. To the extent any amount in this paragraph has not been approved by the authority by the commencement of State fiscal year 2017, the aggregate tax credit that would have been issued in State fiscal year 2017 shall be issued in the year the amount is approved and the five-year period shall commence in that fiscal year;

(2) For a grant accrued but not paid during calendar year 2014, the tax credit shall be equal to any approved amount and shall be issued in four equal installments over a four-year period beginning in the 2019 tax accounting or privilege period of the business or tax credit transferee;

(3) For a grant accrued but not paid during calendar year 2015, the tax credit shall be equal to any approved amount and shall be issued in four equal installments over a four-year period beginning in the 2019 tax accounting or privilege period of the business or tax credit transferee;

(4) For a grant accrued but not paid during calendar year 2016, the tax credit shall be equal to any approved amount and shall be issued in three equal installments over a three-year period beginning in the 2020 tax accounting or privilege period of the business or tax credit transferee;

(5) For a grant accrued but not paid during calendar year 2017, the tax credit shall be equal to any approved amount and shall be issued in three equal installments over a three-year period

beginning in the 2020 tax accounting or privilege period of the business or tax credit transferee;

(6) For a grant accrued but not paid during calendar year 2018, the tax credit shall be equal to any approved amount and shall be issued in two equal installments over a two-year period beginning in the 2022 tax accounting or privilege period of the business or tax credit transferee;

(7) For a grant accrued but not paid during calendar year 2019, the tax credit shall be equal to any approved amount and shall be issued in two equal installments over a two-year period beginning in the 2022 tax accounting or privilege period of the business or tax credit transferee;

(8) For a grant accrued but not paid during calendar year 2020, the tax credit shall be equal to any approved amount and shall be issued in two equal installments over a two-year period beginning in the 2023 tax accounting or privilege period of the business or tax credit transferee;

(9) For a grant accrued but not paid during calendar year 2021, the tax credit shall be equal to any approved amount and shall be issued in two equal installments over a two-year period beginning in the 2023 tax accounting or privilege period of the business or tax credit transferee;

(10) For a grant accrued but not paid during calendar year 2022, the tax credit shall be equal to any approved amount and shall be paid in two equal installments over a two-year period beginning in the 2023 tax accounting or privilege period of the business or tax credit transferee;

(11) For a grant accrued but not paid during calendar year 2023, the tax credit shall be equal to any approved amount and shall be issued in two equal installments over a two-year period beginning in the 2023 tax accounting or privilege period of the business or tax credit transferee;

(12) For a grant accrued but not paid during calendar year 2024, the tax credit shall be equal to any approved amount and shall be issued in the 2025 tax accounting or privilege period of the business or tax credit transferee; and

(13) For a grant accrued but not paid during calendar year 2025, the tax credit shall be equal to any approved amount and shall be issued in the 2025 tax accounting or privilege period of the business or tax credit transferee.

f. The amount of the credit allowed pursuant to this section shall be applied against the tax otherwise due under section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5, prior to all other credits and payments. If the credit exceeds the amount of tax liability otherwise due from a business that pays taxes under section 5 of P.L.1945, c.162 (C.54:10A-5), that amount of excess shall be an overpayment for the purposes of R.S.54:49-15, provided, however, that section 7 of P.L.1992, c.175 (C.54:49-15.1) shall not apply.

g. A business that does not pay taxes under section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 may apply to the executive director of the authority for a tax credit transfer certificate, covering one or more years. The tax credit transfer certificate, upon receipt thereof by the business from the executive director of the authority, may be sold or assigned, in full or in part, in an amount not less than $100,000, or the amount of the refundable tax credit issued if less than $100,000, of tax credits to any other person that may have a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The tax credit transfer certificate provided to the business shall include a statement waiving the business's right to claim that amount of the credit against the taxes that the business has elected to sell or assign. The sale or assignment of any amount of a tax credit transfer certificate allowed under this section shall not be exchanged for consideration received by the business of less than 75 percent of the transferred credit amount before considering any further discounting to present value which shall be permitted. Any amount of a tax credit transfer certificate used by a purchaser or assignee against a tax liability shall be subject to the same privileges, limitations, and conditions that apply to the use of the credit by the business that originally applied for and was allowed the tax credit, including treating the amount of excess as an overpayment under subsection f. of this section. The tax credit transferee may not transfer its tax credit to any other party.

(cf: P.L.2015, c.194, s.2)

2. This act shall take effect immediately; provided, however, that section 1 shall apply retroactively to January 11, 2016.

STATEMENT

This bill revises the priority schedule that was established by P.L.2015, c.194 (C.34:1B-137.1 et al.) for the issuance of converted tax credits under the Business Employment Incentive Program to slow implementation of the conversion process.

Under current law, businesses that have previously been approved for the award of a grant under the program may direct the New Jersey Economic Development Authority to convert the grant to a tax credit that can be used to reduce the business’s tax liability or sold or assigned to another person that may have a liability for tax through a tax credit transfer certificate. The law authorizing the conversion of grants to tax credits establishes an implementation schedule that prioritizes the issuance of tax credits in connection with older, outstanding grant awards that should have been paid in prior calendar years over grant awards that may be due and newly payable in the future.

The priority schedule requires the authority to issue tax credits in connection with the oldest, outstanding grant awards that have accrued but not been paid to businesses during calendar year 2008 through calendar year 2013 over a five-year period beginning in the 2017 tax accounting or privilege period of the business. The schedule provides that in year one of the five-year period the authority is required to issue the first installment of the tax credit to the business totaling 30% of the amount of the grant that was accrued but not paid during calendar year 2008 through calendar year 2013; in year two the authority is required to issue the second installment of the tax credit totaling 30% of the amount of the grant that was accrued but not paid during those years; in year three the authority is required to issue the third installment totaling 20% of the amount of the grant that was accrued but not paid; in year four the authority is required to issue the fourth installment totaling 10% of the amount of the grant that was accrued but not paid; and in the fifth year the authority is required to issue the fifth installment totaling 10% of the accrued amount.

This bill revises that priority schedule to decrease the percentage of the accrued amounts that are required to be issued as tax credits to businesses in year one and year two of the five-year period, and to increase the percentage amounts in years three, four, and five. The bill provides that in year one the authority is required to issue the first installment of the tax credit to the business totaling 5% of the amount of the grant that was accrued but not paid during calendar year 2008 through calendar year 2013; in year two the authority is required to issue the second installment of the tax credit totaling 20% of the amount of the grant that was accrued but not paid during those years; in year three the authority is required to issue the third installment totaling 25% of the amount of the grant that was accrued but not paid; in year four the authority is required to issue the fourth installment totaling 25% of the amount of the grant that was accrued but not paid; and in the fifth year the authority is required to issue the fifth installment totaling 25% of the accrued amount.

The bill takes effect immediately, but provides for its changes to the priority schedule to apply retroactively to January 11, 2016, the date P.L.2015, c.194 was enacted.

FISCAL NOTE
SENATE, No. 2376
STATE OF NEW JERSEY
217th LEGISLATURE

DATED: JUNE 29, 2016

SUMMARY

Synopsis: Revises priority schedule for issuance of converted tax credits under Business Employment Incentive Program.

Type of Impact: Multi-year shift of annual State revenue losses to the General Fund.

Agencies Affected: Department of the Treasury;
New Jersey Economic Development Authority.

Executive Estimate

Fiscal Impact	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
State Revenue Increase	$133.4 million	$53.4 million			
State Revenue Decrease			($26.7) million	($80.1) million	($80.1) million

- The Office of Legislative Services (OLS) lacks sufficient information to independently confirm or refute the Executive estimate. But the OLS notes that the Executive estimate assumes that all businesses with outstanding grant award payments under the Business Employment Incentive Program (BEIP) will elect to convert their grants to tax credits and that State revenue losses will be realized in the year in which tax credits are issued. The estimated amounts may vary if some businesses that have been awarded a grant fail to make the election or otherwise opt-out of the conversion process, or if there is a lag between the time the tax credit is issued to a business and the time the tax credit is utilized by the business to reduce a tax liability.

- The Executive estimates this bill will result in a multi-year shift in the size and scope of converted tax credits expected to be issued in connection with BEIP grants that were accrued during calendar years 2008 through 2013 but remain to be paid. Specifically, the Executive estimates that this shift may produce a State revenue increase of $133.4 million in FY 2017 and $53.4 million in FY 2018, and a State revenue decrease of $26.7 million in FY 2019, $80.1 million in FY 2020, and $80.1 million in FY 2021, in comparison to the amounts expected to be forgone by the State under current law. The net effect of the shift over the five-year period is nil.

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BILL DESCRIPTION

Senate Bill No. 2376 of 2016 slows the implementation of the priority schedule that was established by P.L.2015, c.194 for the issuance of converted BEIP tax credits.

Under current law, businesses that have previously been approved for a BEIP grant award may direct the New Jersey Economic Development Authority (EDA) to convert the grant to a tax credit that can be used to reduce the business's tax liability or sold or assigned to another person. The law authorizing the conversion of grants to tax credits establishes an implementation schedule that prioritizes the issuance of tax credits in connection with older, outstanding grant awards that should have been paid in prior calendar years over grant awards that may be due and newly payable in the future.

The current priority schedule requires the EDA to issue tax credits for outstanding grant awards that accrued to businesses during calendar year 2008 through calendar year 2013 over a five-year period beginning in the 2017 tax accounting or privilege period of the business, as follows: (1) in *year one* of the five-year period the EDA is required to issue the first installment of the tax credit to the business totaling *30 percent* of the outstanding grant amount; (2) in *year two* the EDA is required to issue the second installment totaling *30 percent* of the outstanding grant amount; (3) in *year three* the EDA is required to issue the third installment totaling *20 percent* of the outstanding grant amount; (4) in *year four* the EDA is required to issue the fourth installment totaling *10 percent* of the outstanding grant amount; and (5) in the *fifth year* the EDA is required to issue the fifth installment totaling *10 percent* of the outstanding accrued amount.

This bill revises that priority schedule to decrease the percentage of the accrued amounts that are required to be issued as tax credits to businesses in year one and year two of the five-year period, and to increase the percentage in years three, four, and five. The bill provides that: (1) in *year one* the EDA is required to issue the first installment of the tax credit to the business totaling *5 percent* of the amount of the outstanding grant that was accrued during calendar year 2008 through calendar year 2013; (2) in *year two* the EDA is required to issue the second installment totaling *20 percent* of the outstanding grant amount; (3) in *year three* the EDA is required to issue the third installment totaling *25 percent* of the outstanding grant amount; (4) in *year four* the EDA is required to issue the fourth installment totaling *25 percent* of the outstanding grant amount; and in the *fifth year* the EDA is required to issue the fifth installment totaling *25 percent* of the outstanding accrued amount.

The bill takes effect immediately, but provides for its changes to apply retroactively to January 11, 2016, the date P.L.2015, c.194 was enacted.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The EDA indicates that this bill will result in a multi-year shift in the size and scope of converted tax credits that are expected to be issued in connection with BEIP grants that accrued during calendar years 2008 through 2013 but remain to be paid. The EDA projects that the bill will apply to $533.7 million in tax credits in total and that the net effect of the shift will be nil.

The EDA estimates that the legislation may produce a State revenue increase of $133.4 million in FY 2017 and $53.4 million in FY 2018, and a State revenue decrease of $26.7 million in FY 2019, $80.1 million in FY 2020, and $80.1 million in FY 2021, in comparison to the amounts expected to be forgone by the State under current law. The EDA does not expect the bill to affect State revenue collections after FY 2021.

Comparison of EDA-Estimated State Revenue Losses: FY 2017 – FY 2021 ($ in Thousands of Dollars)						
	FY 2017	*FY 2018*	*FY 2019*	*FY 2020*	*FY 2021*	*TOTAL*
Revenue Loss: Current Law	$160,104	$160,104	$106,736	$53,368	$53,368	$533,680
Revenue Loss: Proposed Change	$26,684	$106,736	$133,420	$133,420	$133,420	$533,680
State Revenue Increase or (Decrease) Under Bill	**$133,420**	**$53,368**	**($26,684)**	**($80,052)**	**($80,052)**	**$0**

OFFICE OF LEGISLATIVE SERVICES

The OLS lacks sufficient information to independently confirm or refute the Executive projections.

The OLS notes that the Executive projections for the potential State revenue impact under both the current priority schedule and under the bill's proposed changes are based on the assumption that all businesses with outstanding BEIP grant amounts will elect to convert their grants to tax credits. While it is generally accepted that most businesses will make the election to convert previously approved grants to credits due to insufficient State appropriations for grants in recent fiscal years, it is possible some businesses may not do so by the July 11, 2016 deadline established by statute.

In responding to EDA Discussion Point #5 in the OLS Fiscal Year 2016-2017 Department of the Treasury Budget Analysis the authority acknowledged that as of the time of its response (May 2016) only nine of the affected businesses that had previously been awarded a BEIP grant had made the election to convert their grants to tax credits. If some businesses that have been awarded a grant fail to make the election or otherwise opt-out of the conversion process, the amount of revenue that may be gained or lost as a result of the bill in a given year may need to be reduced to reflect the value of those grants not converted to tax credits.

In addition, the OLS notes that the Executive estimate assumes State revenue losses will be realized in the year in which the authority issues the tax credit to the business. However, this may not be the case. Dependent on when the EDA issues a converted tax credit to a business, there may be a lag of a year or more between the time the tax credit is issued to the business and the time the tax credit is used by the business to reduce a tax liability. This lag means that some portion of the underlying State revenue increase or decrease resulting from the bill may not be realized until the year following the year of tax credit issuance. As a result, actual losses in any given year may vary from EDA projections.

Section: *Revenue, Finance, and Appropriations*

Analyst: *Luke E. Wolff*
Senior Research Analyst

Approved: *Frank W. Haines III*
Legislative Budget and Finance Officer

This fiscal note has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 2376

STATE OF NEW JERSEY

DATED: JUNE 23, 2016

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2376.

This bill revises the priority schedule that was established by P.L.2015, c.194 (C.34:1B-137.1 et al.) for the issuance of converted tax credits under the Business Employment Incentive Program to slow implementation of the conversion process.

Under current law, businesses that have previously been approved for the award of a grant under the program may direct the New Jersey Economic Development Authority to convert the grant to a tax credit that can be used to reduce the business's tax liability or sold or assigned to another person that may have a liability for tax through a tax credit transfer certificate. The law authorizing the conversion of grants to tax credits establishes an implementation schedule that prioritizes the issuance of tax credits in connection with older, outstanding grant awards that should have been paid in prior calendar years over grant awards that may be due and newly payable in the future.

The priority schedule requires the authority to issue tax credits in connection with the oldest, outstanding grant awards that have accrued but not been paid to businesses during calendar year 2008 through calendar year 2013 over a five-year period beginning in the 2017 tax accounting or privilege period of the business. The schedule provides that:

-- in year one of the five-year period the authority is required to issue the first installment of the tax credit to the business totaling 30% of the amount of the grant that was accrued but not paid during calendar year 2008 through calendar year 2013;

-- in year two the authority is required to issue the second installment of the tax credit totaling 30% of the amount of the grant that was accrued but not paid during those years;

-- in year three the authority is required to issue the third installment totaling 20% of the amount of the grant that was accrued but not paid;

-- in year four the authority is required to issue the fourth installment totaling 10% of the amount of the grant that was accrued but not paid; and

-- in the fifth year the authority is required to issue the fifth installment totaling 10% of the accrued amount.

This bill revises that priority schedule to decrease the percentage of the accrued amounts that are required to be issued as tax credits to businesses in year one and year two of the five-year period, and to increase the percentage amounts in years three, four, and five. The bill provides that:

-- in year one the authority is required to issue the first installment of the tax credit to the business totaling 5% of the amount of the grant that was accrued but not paid during calendar year 2008 through calendar year 2013;

-- in year two the authority is required to issue the second installment of the tax credit totaling 20% of the amount of the grant that was accrued but not paid during those years;

-- in year three the authority is required to issue the third installment totaling 25% of the amount of the grant that was accrued but not paid;

-- in year four the authority is required to issue the fourth installment totaling 25% of the amount of the grant that was accrued but not paid; and

-- in the fifth year the authority is required to issue the fifth installment totaling 25% of the accrued amount.

The bill takes effect immediately, but provides for its changes to the priority schedule to apply retroactively to January 11, 2016, the date P.L.2015, c.194 was enacted.

FISCAL IMPACT:

The Executive estimates this bill will result in a multi-year shift in the size and scope of converted tax credits expected to be issued in connection with Business Employment Incentive Program grants that were accrued but were not paid during calendar years 2008 through 2013. Specifically, the Executive estimates this shift may produce a State revenue increase of $133.4 million in FY 2017 and $53.4 million in FY 2018, and a State revenue decrease of $26.7 million in FY 2019, $80.1 million in FY 2020, and $80.1 million in FY 2021, in comparison to the amounts expected to be forgone by the State under current law. The net effect of the shift over the five-year period is nil.

The Office of Legislative Services (OLS) lacks sufficient information to independently confirm or refute the Executive estimate. However, the OLS notes that the Executive estimate assumes that all businesses that have previously been awarded a grant under the program will elect to convert that grant to a tax credit and that State revenue losses will be realized in the year in which tax credits are issued. The amounts presented above may vary if some businesses that have been awarded a grant fail to make the election or otherwise opt-out of the conversion process, or if there is a lag between the time the tax credit is issued to a business and the time the tax credit is ultimately utilized by the business to reduce a liability for tax.

Governor Christie Signs 7th Consecutive Budget Without Raising Taxes On New Jersey Families

Thursday, June 30, 2016 Tags: Budget and Spending

State of New Jersey
OFFICE OF THE GOVERNOR

Continues Commitment To Fiscal Responsibility

Through the use of his veto pen, Governor Christie today signed a seventh consecutive balanced budget that protects taxpayers and critical services through the responsible management of state resources while making the difficult choices to prioritize and fund the essential services on which New Jersey's residents rely.

For Fiscal Year 2017, Assembly and Senate Democrats once again presented an irresponsible spending plan that favors increasing expenditures for select programs without any meaningful and intellectual consideration for how the state will fund their proposals. But this year they have become uniquely reckless and deceptive, relying on phantom finances, irresponsible gimmicks and unrealistic assumptions to fund hundreds of millions of dollars of new spending.

- Their plan is based on impractical expectations that the State will collect **$129 million** in additional revenues than projected in the Governor's revised May budget recommendations and **$301 million** more than the May revenue projections prepared by their own Office of Legislative Services.

Additionally, the legislative majority wants to thoughtlessly spend down the State's surplus by $160 million. Worse, however, is their shameless inclusion of a **$250 million** savings in public employee and retiree health care costs which the Governor called for in February, but which the Legislature did absolutely nothing to embrace, negotiate or achieve. As it stands, the savings is penciled in on paper, but completely nonexistent.

Rather than enact responsible policies to continue New Jersey's economic recovery, Democrat leaders remain committed to an unsustainable path designed to protect special interests instead of hardworking New Jerseyans. The taxpayers of this State cannot afford it. Real leadership requires confronting problems and making difficult decisions. It is time to focus on the real issues, like school funding reform and providing real property tax relief. It is time to adopt a transportation spending plan that protects our infrastructure without continuing to overburden our overtaxed residents. It is time for politicians to work for their citizens and not special interest groups.

Governor Christie's Fiscal Year 2017 Budget:

Governor Christie's budget includes **$34.5 billion** in State appropriations, a **2.1%** increase over the fiscal year 2016 budget. This will accommodate the reasonable spending necessary to provide stability for New Jersey's economy while meeting the state's fiscal obligations.

- Contains ***$2.3 billion less in discretionary spending*** than the fiscal year 2008 budget and no new taxes or tax increases.

- Includes the largest pension payment in New Jersey history with a **$1.9 billion** contribution to the State's defined benefit funds.

o This will bring total contributions by the Christie Administration to **$6.3 billion.**
o That will be nearly double the total contributions of every other governor combined since 1995.

• Includes a sixth consecutive year of the highest amount of School Aid supporting Pre-K - 12 education in New Jersey history. The fiscal year 2017 budget proposes spending more than **$13.3 billion** on education, an increase of **$526 million** from fiscal year 2016.

• Continues the Governor's commitment to higher education in New Jersey. Overall, higher education funding is maintained at a total of **$2.2 billion** in fiscal year 2017.

Providing Tax Relief For Our Citizens. Governor Christie has fought for and won tax relief that is making New Jersey more competitive as a place to live and work.

• **Over $3 Billion in Business Tax Cuts and Reforms –** Beginning with the fiscal 2012 budget, Governor Christie tackled New Jersey's business tax climate with tax cuts and reforms that had stalled in Trenton for years. Among the tax reforms included were: long-awaited changes to a single sales factor formula that incentivizes businesses to invest in New Jersey; income/loss netting and loss carry-forward reform; a 25% reduction in the minimum tax on S-corporations, which is how many small businesses file their taxes; research and development incentives; and elimination of the Transitional Energy Facility Assessment.

• The Governor's Fiscal Year 2017 Budget continues to provide this essential tax relief for New Jersey businesses of all sizes, fully phased in and unchanged.

• **Increase in the Earned Income Tax Credit –** In the summer of 2015, Governor Christie proposed and enacted into law an increase in the Earned Income Tax Credit from 20% to 30% of the federal benefit. Approximately 500,000 Garden State households will benefit from this tax relief, with the credit for an average working family rising by 50% from approximately $420 to $630. The Governor's Fiscal Year 2017 Budget continues this critical tax relief for working families at this expanded level.

Historic Higher Education Funding. Maintains the Governor's commitment to higher education in New Jersey. Overall, higher education funding is maintained at a total of **$2.2 billion** in fiscal year 2017. Among Governor Christie's highest priorities has been strengthening New Jersey's higher education community.

• **Tuition Assistance Grant Program (TAG) –** To ensure an affordable in-state college education is available to all, TAG grants are available at 56 public and private institutions across New Jersey. Since taking office, Governor Christie has increased State funding for the TAG program by over 60%, to a total of $403.6 million in fiscal year 2017. Approximately 68,000 students, or one-third of all full-time undergraduate students attending school in New Jersey, will receive support from TAG.

• **Governor's Urban Scholarship –** The Governor's Urban Scholarship program will add a fifth class, and will now support an estimated 635 scholars in targeted school districts.

• **College Readiness Now –** Funded at $1 million in fiscal year 2017, this program will help students prepare for college level course work before they graduate high school. Funding will fully support partnerships between the county colleges and at least 60 high schools throughout the state, with at least one in each county.

Preserving Vital Programs For Our Most Needy And Vulnerable Populations. Advances the Governor's efforts to take a smarter and more effective approach to how the State supports individuals with mental health and substance use disorders. Governor Christie has consistently advocated for the need to change the way society views drug addiction and the misconceptions about who it impacts, how it affects lives, and how we deal with it. In the fiscal year 2017 budget, Governor Christie continues to provide unprecedented leadership on this issue by taking concrete actions to build on this commitment by providing an additional $6 million for statewide post-incarceration services through reentry and recidivism programs.

• **$127 Million Investment In Substance Use & Mental Health Treatment –** The Governor is making a historic financial commitment to raise reimbursement rates and increase access to substance use and mental health treatment. A combined State and federal investment in fiscal year 2017 of more than **$127 million**, will expand access to high quality health care providers for individuals with substance use and behavioral health needs.

• **Inmate Drug Treatment Program –** Continuing his commitment to help all individuals with substance use disorders, Governor Christie is investing **$2 million** to re-open Mid-State Correctional Facility in 2017 as an institution dedicated to the treatment of inmates. The new Mid-State Correctional Facility substance use disorder treatment program will be licensed by the Division of Mental Health and Addiction Services (DMHAS).

• **Focusing On Treatment –** Governor Christie has followed through on his commitment to take a smarter and more effective approach focused on treating drug-addicted offenders by signing into law landmark legislation to put in place a statewide, mandatory Drug Court Program. The fiscal year 2017 budget includes nearly **$64 million** in funding to support the Drug Court program.

• **Recovery Coach Program –** As a direct result of the Facing Addiction Task Force's work, the Recovery Coach program launched in Monmouth, Ocean, Camden, Essex and Passaic counties. In fiscal year 2017, the budget provides an additional **$1.7 million** in funding to expand this program into six more counties.

Fundamentally changing the way services and programs to support individuals with developmental disabilities and their families. Governor Christie is committed to moving away from a system that has historically focused on institutionalization to one that emphasizes home and community-based services and supports. To this end, resources have been refocused to provide people with intellectual and developmental disabilities with the ability to live as independently as possible with the proper supports. Governor Christie's determination to provide services in the community includes funds to develop additional community placements and services that divert admissions to developmental centers.

- The fiscal year 2017 budget provides **$48.8 million** of new State and federal funding to create community placements and services, including Olmstead.

- Further, included in the fiscal year 2017 budget is a one-time community provider increase for a combined State and federal investment of **$10 million**. These funds will allow providers that serve individuals with developmental disabilities to make the infrastructure improvements necessary to transition to fee-for-service.

BILLS SIGNED:

S-993wGR/A-2777 (Vitale, Pou, Gordon/Wimberly, Vainieri Huttle, Sumter, Oliver) – Permits DHS to request waiver of time limits for certain Supplemental Nutrition Assistance Program recipients under certain circumstances

S-2377/A-4001 (Sarlo/Schaer) - Makes fiscal year 2016 State supplemental appropriations and amends language provisions

S-2456/A-4017 (Smith, Bateman/Andrzejczak, McKeon, Spencer, Pintor Marin, Dancer) - Revises State's open space, farmland, and historic preservation programs; implements 2014 constitutional dedication of CBT revenues for certain environmental purposes

A-3417wGR/S-1462 (Pintor Marin/Ruiz) - Designates portion of State Highway Route No. 21 as "Roberto Clemente Memorial Highway"

A-3617/S-2390 (Green, Rible, Mukherji, Houghtaling Mazzeo/Sarlo, Kyrillos) - Extends expiration date of certain permits for one year in Superstorm Sandy-impacted counties

A-4002 (Schaer) – Revises priority schedule for issuance of converted tax credits under Business Employment Incentive Program

BILLS VETOED:

S-17/A-4000 (Sarlo/Schaer) – LINE ITEM - Appropriates $34,800,995,000 in State funds and $15,706,712,000 in federal funds for the State budget for fiscal year 2016-2017

S-1017/A-1963 (Weinberg, Greenstein/Pintor Marin, Lagana, Jasey, Mukherji, Downey) – ABSOLUTE - Provides Medicaid coverage for family planning services to individuals with incomes up to 200 percent of the federal poverty level

A-30/S-1829 (Prieto, Muoio, Oliver, Schaer, Holley, Mukherji, Quijano/Vitale, Whelan) – ABSOLUTE - Increases amount of benefits under Work First New Jersey program

A-1657/S-2168 (Schaer, Vainieri Huttle, Lampitt, Mosquera, Sumter, Wimberly/ Cruz-Perez, Turner) – ABSOLUTE - Establishes "breakfast after the bell" incentive fund

A-3410/S-1854 (Muoio, Vainieri Huttle, Mukherji, Oliver, Gusciora/Vitale, Rice) – ABSOLUTE - Repeals family cap in Work First New Jersey program

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